

**Food Stamp Program
Special Situation Households**

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This chapter contains the food stamp policy and certification procedures for special situation households. Special certification procedures are prescribed when a household's receipt of income or other circumstances are substantially different from the typical food stamp household. These procedural deviations are intended to minimize any undue advantage or disadvantage to a household as a result of their unusual circumstances. Some examples of these procedural deviations are as follows:

- (A) Averaging the income for certain self-employed individuals and seasonal employees instead of considering only that part of their income expected to be received during the certification period. Likewise, certain student income is averaged over the period it is intended to cover.
- (B) Allowing self-employed and student households deductions for certain expenses paid prior to the certification period in addition to those expenses paid during the certification period.
- (C) Requiring residents of drug or alcoholic treatment and rehabilitation centers to apply for and use food stamps through an authorized representative.
- (D) Requiring households eligible for expedited service to provide verification of identity but also allowing for immediate certification and issuance for these households.
- (E) Certifying households even if they include ineligible individuals, whether the ineligible individual is a non-household member or a disqualified non-household member. The worker must evaluate the income and resources available to these households differently depending on whether the ineligible individual is a non-disqualified non-household member or a disqualified non-household member.

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Page 365.100****Rev. 11/95**365.100: Reserved365.110: Definition of a PA Household

PA households are those households in which all members receive a cash grant under one of the following programs: Transitional Aid to Families with Dependent Children (TAFDC), Aid to Families with Dependent Children (AFDC), Emergency Aid to the Elderly, Disabled, and Children (EAEDC), or the Refugee Resettlement Program (RRP). The following households will also be considered PA households:

- (1) if an SSI recipient(s) is a member of a household in which all the other members receive cash assistance under TAFDC, AFDC, EAEDC or RRP; and
- (2) if a child(ren) born after the Family Cap Date and not included in the TAFDC grant is a member of a household in which all other household members receive cash assistance under TAFDC, AFDC, EAEDC or RRP.

Even though a TAFDC Full Employment Program (FEP) household may not receive a cash grant, the household will be considered a PA Household. The wage supplementation plan allows the Department to pool the cash grant with the cash value of food stamp benefits to reimburse employers for a portion of the wages paid to the recipient. A FEP household may receive a cash supplement, if necessary, to bring the income of the household up to the level of the combined AFDC and food stamp benefits which would have been paid if a household member was not participating in FEP.

365.120: Determining Eligibility and Benefit Level

- (A) To facilitate their participation in the program, PA households shall be allowed to apply for food stamp benefits at the same time they apply for other assistance. However, the household's eligibility and benefit level shall be based solely on food stamp eligibility criteria and the household shall be certified in accordance with notice, timeliness, and procedural requirements of the food stamp regulations. If the household's intention to apply for food stamps is unclear, the worker shall determine at the interview, or in other contact with the household, whether or not the household also wants the PA application processed for food stamp purposes.

- (1) Joint Application Form

The TAFDC/AFDC application and the EAEDC application shall contain all the information necessary to determine a household's food stamp eligibility and benefit level. These joint applications shall also have a place for the household to indicate if it does not wish to apply for food stamps. The applicant shall not be required to fill out any additional application form for food stamp purposes.

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The worker shall conduct a single interview at initial application for both cash assistance and food stamp purposes. PA households shall not be required to see a different worker or otherwise be subject to two interview requirements in order to obtain the benefits of both programs. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for food stamps and cash assistance. A household's eligibility for food stamp out-of-office interview provisions does not relieve the household of any responsibility for a face-to-face interview in order to be certified for public assistance.

(3) Verification Standard

- a. For households applying for both cash assistance and food stamps, the verification procedures described in 106 CMR 361.600 through 361.660 shall be followed for those factors of eligibility that are needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility that are needed to determine eligibility for both cash assistance and food stamps, the worker shall follow cash assistance verification requirements. However, in no case shall the worker delay the household's food stamp benefits if, at the end of 30 days following the date the application was filed, the applicant has provided sufficient verification to meet the verification for food stamp purposes, even if there is not sufficient verification to meet the cash assistance verification rules.

For example, a family applies for TAFDC and food stamps. The applicant submits verification of income and all other verification necessary for food stamp purposes shortly after submitting the joint application. However, the applicant does not submit birth certificates which are necessary to establish TAFDC eligibility. In this case, the food stamp assistance shall not be delayed or denied because of the household's failure to comply with a TAFDC eligibility requirement.

- b. A household may be denied food stamps and cash assistance at the same time (based on the cash assistance processing standards) when all of the following conditions have been met:
1. The Department has provided the household with a statement of required verification and has assisted the household in obtaining verification, as necessary;

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2. The Department has informed the household of the appropriate processing standard, in writing, at the time of the application and notified the household at the interview of the date by which any missing verification must be provided; and
3. The household has failed to provide verification of an eligibility factor that is required for both cash assistance and food stamps.

For example, if a family applies jointly for cash assistance and food stamps and fails to submit income verification by the cash assistance processing date, cash assistance and food stamps would be denied on the same day because income verification is required for the Food Stamp Program as well as for cash assistance. The household would have to reapply if it wants to participate in the Food Stamp Program.

If the household provides the missing verification within the initial 30-day period, the Department must provide benefits from the date of application. If the household does not provide the missing verification or complete the application until the second 30 days, the Department must provide benefits from the date the household submitted a complete application or furnished the missing verification.

(4) Timeliness Standard

The worker must make the food stamp eligibility determination in accordance with all the timeliness standards and procedures specified in 106 CMR 361.700 through 361.960, unless the household has failed to provide verification of an eligibility factor that is required for both cash assistance and food stamps in accordance with 106 CMR 365.120(A)(3)(b).

- a. As a result of differences in PA and food stamp application processing procedures and timeliness standard, the worker may have to determine food stamp eligibility prior to determining eligibility for PA payments. Action on the food stamp portion of the application shall not be delayed nor the application denied on grounds that the PA determination has not been made.
- b. Households whose PA applications are denied but who have provided all verifications necessary to determine food stamp eligibility shall not be required to file a new food stamp application. They shall, however, have their food stamp eligibility determined or continued on the basis of the original application filed jointly for PA and food stamp purposes and any other documented information obtained subsequent to the application that may have been used in the PA determination and that is relevant to food stamp eligibility or level of benefits.

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1 (B) Asset Standards for PA Households

Asset standards for PA households shall be determined in accordance with 106 CMR 363.110.

(C) Income Standards For PA Households(1) Countable Income

All income received by the PA household, including the cash grant, special allowances and all other income (unless excluded in accordance with 106 CMR 363.230) shall be counted in determining the household's eligibility for food stamps.

(2) Income Exclusions and Deductions

PA households will receive only the income exclusions and deductions provided in Food Stamp policy. The income exclusions and deductions allowed under cash assistance programs for the purposes of grant calculation shall not be allowed in determining income for food stamp purposes.

(3) Special Allowances, Retroactive Lump Sum Payments and Protective Paymentsa. Special Allowances

Special allowances, except for one-time payments (e.g., the clothing allowance for TAFDC children) or vendor payments, are treated as countable income. This income may be averaged over the certification period or a variable basis of issuance to cover the period when the allowance is received.

b. Retroactive Lump Sum PA Payments

Retroactive lump sum payments are excluded as income and counted as an asset in the month received. If a PA recipient's first payment is delayed beyond the first month of eligibility, the retroactive portion of that check is considered a lump sum payment. For example, if a household applies in November and is eligible in November but receives its first check in December to cover both months, only the December benefit amount is considered as income.

c. Protective Payments

Protective payments are any portion of the cash grant that is legally obligated and otherwise payable to the PA household, but diverted by the Department to a third party for a household expense (e.g., vendor rent). Protective payments are countable as income when determining food stamp eligibility and benefit level.

365.130: Work Requirements for PA Assistance Units

Cash assistance recipients are exempt from the Food Stamp Program Work Requirements if subject to and complying with a cash assistance work requirement in accordance with 106 CMR 362.310. PA assistance units shall not receive an increase in food stamp benefits if an assistance unit member refuses to comply with the TAFDC or EAEDC work requirements.

365.140: Certification Period for PA Assistance Units

PA assistance units shall be assigned a 12-month certification period. The certification period shall expire the month following the assistance unit's next scheduled PA redetermination or at the end of the 12-month certification period, whichever occurs first.

365.150: Recertification Requirements for PA Assistance Units

PA assistance units shall be recertified for food stamp benefits, to the extent possible, at the same time they have their eligibility reviewed for the cash assistance program. If a PA assistance unit has not had its PA eligibility reviewed by the end of the 11th month following its initial certification or last eligibility review, a Notice of Food Stamp Termination shall be sent to the assistance unit.

365.155: Reserved

365.160: Change Reporting Requirements for PA Households

Except for TAFDC households subject to TAFDC Monthly Reporting, and for changes in grant amounts, PA households are subject to the same reporting requirements as all other food stamp households (as specified in 106 CMR 366.110) and shall use the Food Stamp Change Report Form and postage-paid envelope provided by the Department. PA households that report a change in circumstances to the PA worker shall be considered to have reported the change for food stamp purposes.

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Except as provided in this section, action shall be taken on reported changes in accordance with the notification and timeliness standards set forth in 106 CMR 366.100 through 106 CMR 366.220. PA households must be notified whenever their food stamp benefits are altered as a result of changes in their public assistance (PA) benefits. They must also be informed whenever their food stamp certification period has been shortened to reflect changes in household circumstances.

Subsections (A), (B), and (C) provide special instructions for handling PA households that, during their certification period, experience 1) a reduction in their PA benefits, 2) termination of their PA benefits, or 3) a change in household circumstances which results in a change in their food stamp classification from PA to NPA.

Subsection (D) provides special instructions for handling a change from PA to NPA status that is known to the Department at the time of a public assistance redetermination.

(A) Reduction in Public Assistance Benefits

When the change results in a reduction in the household's PA benefits and a reduction or termination in its food stamp benefits within its food stamp certification period, notice of adverse action shall be issued for both the PA and the food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. The hearing shall be conducted according to PA procedures and timeliness standards. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective in the month following the expiration of the advance notice period, when possible.

When the change requires a reduction in the household's PA benefits but an increase in its food stamp benefits, a PA notice of adverse action shall be issued. The notice shall inform the household of the proposed increase but no action shall be taken to increase food stamp benefits until the household decides whether it will appeal the proposed action to reduce the cash assistance. If the household decides to appeal and its PA benefits are continued, the household's food stamp benefits shall continue at the previous level. If the household does not appeal, action shall be taken to make the food stamp change effective in accordance with the timeliness standards set forth in 106 CMR 366.120. The time limits for acting on the change, however, shall be calculated from the date the PA notice of adverse action period expires.

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When the change results in termination of the household's PA benefits, members of the household who lose their work registration exemption must be advised of the food stamp work registration requirements, if applicable. When there is sufficient information to determine how the change affects the household's food stamp eligibility and benefit level the following action shall be taken:

- (1) If the change results in a reduction or termination in food stamp benefits, notice of adverse action shall be issued for both the PA and the food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. The hearing shall be conducted according to PA procedures and timeliness standards. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective, when possible, in the month following the expiration of the PA advance notice period.
- (2) If the household's food stamp benefits will be increased, a PA notice of adverse action shall be issued. The notice shall inform the household of the proposed increase but no action shall be taken to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its PA benefits are continued, the household's food stamp benefits shall continue at the previous level. If the household does not appeal, the food stamp change shall be made effective in accordance with the timeliness standards in 106 CMR 366.120. The time limits for acting on the change, however, shall be calculated from the date the notice of adverse action period expires.

When there is insufficient information to determine how the change affects the Household's food stamp eligibility and benefit level, a notice of adverse action shall be issued informing the household of the termination of its PA benefits. The notice shall also inform the household that its food stamp certification period will expire at the end of the month following the month the notice is sent, and that it must reapply if it wishes to continue to participate in the Food Stamp Program. The notice shall explain that the certification period is expiring because of changes in the household's circumstances that may affect its food stamp eligibility and benefit level. The notice shall specify that the household, if eligible for benefits, shall be entitled to uninterrupted benefits if it files an application by the 15th day of the last month of its certification period and completes its recertification responsibilities. If the household requests a fair hearing and its PA benefits are continued pending the appeal, the household's food stamp benefits shall be continued at the same level.

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When a household's food stamp classification changes from PA to NPA, Department procedures shall be followed to assure that the household's food stamp benefits are not ended merely because case responsibilities are transferred from the PA to the NPA unit. The household's resources must be reevaluated under the resource eligibility criteria of the Food Stamp Program when the classification changes from PA to NPA or all members of the household are no longer receiving TAFDC benefits.

If there is sufficient information to determine how the change affects the household's food stamp benefits, notification and timeliness standards set forth in this section and in 106 CMR 366.120 through 106 CMR 366.220 shall be followed.

If there is insufficient information to determine the effect on the household's food stamp eligibility and benefit level, a Notice of Food Stamp Termination shall be sent. The notice must inform the household that its certification period will expire at the end of the month following the month the notice is sent, and that it must reapply if it wishes to continue to participate in the Food Stamp Program. The notice shall explain that the certification period is expiring because of changes in circumstances which may affect the household's food stamp eligibility and benefit level. The notice shall specify that the household, if eligible for benefits, shall be entitled to uninterrupted benefits if it files an application by the 15th day of the last month of its certification period and completes its recertification responsibilities.

(D) Change from PA to NPA Status is Known to the Department at the Time of the Public Assistance Redetermination

When a change from PA to NPA status is known to the Department at the time of a public assistance redetermination, the assistance unit shall nevertheless be recertified for food stamp benefits, to the extent possible, at the same time it is redetermined for the public assistance program.

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365.180: Categorically Eligible Assistance Units

(A) The following food stamp assistance units are categorically eligible:

- (1) Any food stamp assistance unit in which **all** members receive or are authorized to receive SSI and/or Emergency Aid to the Elderly, Disabled and Children (EAEDC) benefits.
- (2) Any food stamp assistance unit in which **all** members receive or are authorized to receive TAFDC.
- (3) FS-Only TANF Services AUs include food stamp AUs:
 - (a) consisting solely of a pregnant woman;
 - (b) with a child(ren) under age 19 living with a parent;
 - (c) with a child(ren) under age 19 living with a caretaker relative;
 - (d) with a child(ren) under age 19 living with an adult caretaker exercising food stamp parental control pursuant to 106 CMR 361.200(A)(2).
- (4) Assistance units in (2) and (4) above must be receiving or authorized to receive a Temporary Assistance for Needy Families (TANF) program service or benefit. FS-Only TANF Services AUs must also meet the Gross Monthly Categorical Eligibility Income Standards at 106 CMR 364.976.

All food stamp assistance units consisting solely of a pregnant woman and those with a child(ren) under age 19 living with a parent or caretaker relative are eligible to receive the Commonwealth of Massachusetts *Family Resources Brochure*, a TANF-funded service.

For purposes of paragraphs (1), (2) and (4) authorized to receive means that an individual has been determined eligible for benefits and has been notified of this determination, even if benefits have been authorized but not received, authorized but not accessed, suspended or recouped, or not paid because they are less than a minimum amount.

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(B) SSI and TANF(1) Ineligible Assistance Units

An SSI and/or TANF assistance unit shall not be considered categorically eligible if:

- (a) the entire assistance unit is institutionalized as defined in 106 CMR 361.200;
- (b) any member of that assistance unit is disqualified from receiving food stamp benefits for any of the reasons listed in 106 CMR 367.800 or for failing to comply with Food Stamp Work Program requirements at 106 CMR 362.320; or
- (c) any member of that assistance unit is disqualified for failure to comply with TAFDC Monthly Reporting and Retrospective Budgeting requirements, in accordance with 106 CMR 365.155.

(2) Ineligible Assistance Unit Members

No person shall be included as a member of an otherwise categorically eligible assistance unit if that person is:

- (a) an ineligible noncitizen, in accordance with 106 CMR 362.220;
- (b) an ineligible student, in accordance with 106 CMR 362.400 through 106 CMR 362.410;
- (c) institutionalized in a nonexempt facility, as defined in 106 CMR 361.240(B); or
- (d) ineligible because of failure to comply with the work requirements of the Food Stamp Program at 106 CMR 367.800 or 106 CMR 362.320.

(C) EAEDC(1) Ineligible Assistance Units

An EAEDC assistance unit shall not be considered categorically eligible if the assistance unit:

- (a) refuses to cooperate in providing to the Department information necessary to make a determination of its eligibility or to complete any subsequent review of its eligibility, in accordance with 106 CMR 361.400;

- (b) is disqualified because the head of household fails to comply with Food Stamp Employment and Training requirements at 106 CMR 362.310;
- (c) is ineligible under striker provisions, in accordance with 106 CMR 361.240(E); or
- (d) is ineligible because it knowingly transferred assets for the purpose of qualifying or attempting to qualify for the program, in accordance with 106 CMR 363.150.

(2) Ineligible Assistance Unit Members

No person shall be included as a member of an otherwise categorically eligible assistance unit if that person is:

- (a) an ineligible noncitizen, in accordance with 106 CMR 362.220;
- (b) an ineligible student, in accordance with 106 CMR 362.400 through 106 CMR 362.410;
- (c) institutionalized in a nonexempt facility, as defined in 106 CMR 361.240(B);
- (d) disqualified for any of the reasons listed in 106 CMR 367.800 or for failing to comply with Food Stamp Work Program requirements at 106 CMR 362.320; or
- (e) disqualified for failure to provide or apply for an SSN, in accordance with 106 CMR 362.500.

(D) Income and Asset Standards

Assistance units that are categorically eligible, as defined in 106 CMR 365.180(A), shall automatically satisfy the asset eligibility criteria for food stamp benefits and do not have to meet the gross or net income eligibility standards in 106 CMR 364.950 and 364.970.

(E) Deemed Eligibility Factors

The following eligibility factors shall be deemed without further verification based on the assistance unit's categorical eligibility status:

- (1) assets (except for transferred assets which apply to EAEDC only);

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- (2) gross and net income eligibility standards in 106 CMR 364.950 and 364.970.
- (3) social security number information (TAFDC and SSI only);
- (4) residency (TAFDC, EAEDC and SSI only); and
- (5) sponsored noncitizen information (TAFDC and SSI only).

(F) Verification Requirements

- (1) The Department shall verify the following factors for SSI:
 - (a) each member receives SSI benefits, in accordance with 106 CMR 365.180(A)(1);
 - (b) the assistance unit includes no individuals who have been disqualified in accordance with 106 CMR 365.180(B)(2);
 - (c) the food stamp assistance unit includes all persons who purchase and prepare food together regardless of whether or not they are separate units for SSI; and
 - (d) the assistance unit composition meets the definition of an assistance unit, in accordance with 106 CMR 361.200.
- (2) The Department shall verify the following factors for EAEDC:
 - (a) each member receives EAEDC benefits;
 - (b) the assistance unit includes no individuals who have been disqualified for EAEDC, in accordance with 106 CMR 365.180(C)(2); and
 - (c) the assistance unit composition meets the definition of an assistance unit, in accordance with 106 CMR 361.200.
- (3) The Department shall verify the following factors, for TANF:
 - (a) the assistance unit is eligible for the Commonwealth of Massachusetts *Family Resources Brochure*;
 - (b) the gross income of the assistance unit does not exceed the Gross Monthly Categorical Eligibility Income Standard at 106 CMR 364.976;

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- (c) the assistance unit includes no individuals disqualified in accordance with 106 CMR 365.180(B)(2); and
- (d) the assistance unit composition meets the definition of an assistance unit, in accordance with 106 CMR 361.200.

(G) Determination of Eligibility(1) Pending SSI or EAEDC Eligibility

To determine if an assistance unit will be eligible due to its status as an EAEDC or SSI assistance unit, the food stamp eligibility determination may be temporarily postponed, within the 30-day processing timeframe, if the assistance unit is not entitled to expedited service and appears to be categorically eligible. However, denial of a potentially categorically eligible assistance unit shall only be postponed until the 30th day in case the assistance unit is determined eligible to receive EAEDC or SSI benefits. Upon approval of the EAEDC or SSI application, the assistance unit is considered categorically eligible if it meets all the criteria in 106 CMR 365.180(A) through (F).

(2) Denials

Denied applications of a potentially categorically eligible assistance unit must be easily retrievable. For an assistance unit filing a joint application for food stamp benefits and EAEDC benefits or an assistance unit with an EAEDC or SSI application pending and denied food stamp benefits, but later determined eligible to receive EAEDC or SSI benefits and otherwise categorically eligible, the original application and any other pertinent information occurring after that application shall be used to determine benefits. A second interview is not required. However, the Department shall use any available information to update the application and/or make mail or phone contact with the assistance unit or authorized representative to determine any changes in circumstances.

If a determination of eligibility for EAEDC or SSI benefits is postponed beyond 30 days, or an application for EAEDC or SSI benefits is denied, the food stamp application (for EAEDC or SSI cases, it is included in the EAEDC or SSI application) should be processed immediately as an NPA case. Any changes shall be initialed and the updated application signed by the authorized representative or authorized assistance unit member. The Department shall act on reevaluating the original assistance unit's EAEDC or SSI eligibility. The assistance unit, when applicable, shall be advised on the notice of denial to inform the Department if any pending application for EAEDC or SSI benefits is subsequently approved.

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Any assistance unit determined to be categorically eligible within the 30-day food stamp processing timeframe shall be provided benefits back to the date of the food stamp application or, in the case of a joint application, back to the date of the EAEDC or SSI application. Benefits shall be prorated in accordance with 106 CMR 364.650.

If an assistance unit whose determination of eligibility for EAEDC or SSI benefits has been postponed beyond 30 days and whose food stamp application has been processed as an NPA case subsequently gets approved for EAEDC or SSI benefits, the food stamp benefits must be recalculated based on the excess medical, uncapped shelter, and net income (elderly/ disabled) provisions. Any food stamp benefits owed back to the date of the food stamp application or from the beginning date for which the EAEDC or SSI benefits are paid (whichever date is later) are to be issued.

All categorically eligible one-person and two-person assistance units are entitled to a minimum of \$10 per month except in the initial month. Categorically eligible assistance units with three or more members who do not qualify for a benefit because their income exceeds the level at which benefits are issued cannot be denied. These assistance units must be suspended.

365.190: Transitional Benefits Alternative

When certain TAFDC AUs close, the Department will provide Transitional Benefits Alternative (TBA) food stamp benefits for five months.

(A) Determining the TBA Benefit Amount

The Department will determine the TBA amount by recalculating the food stamp benefit without the TAFDC grant.

If at the time of the TAFDC closing, the AU reports a change(s), the Department will recalculate the food stamp benefits.

- (1) If the recalculated food stamp benefit amount is less than or equal to the TBA amount, the Department will pay the TBA amount.
- (2) If the recalculated food stamp benefit amount is greater than the TBA amount, the Department will:
 - (a) recertify the AU; and
 - (b) pay the increased food stamp benefit amount.

(B) The TBA Period

When certain TAFDC AUs close, the Department will automatically extend their food stamp certification period for five months.

(C) Assistance Units Ineligible for TBA Benefits

TBA will not be provided to a former TAFDC AU when the AU or an AU member has:

- (1) failed to comply with a TAFDC program requirement;
- (2) failed to comply with a food stamp work requirement as defined in 106 CMR 362.300; or
- (3) been disqualified due to an Intentional Program Violation in accordance with 106 CMR 367.525 and 367.800.

(D) Change Reporting Requirements During the TBA Period

The TBA AU is not required to report or provide verification of any changes in household circumstances during the TBA period. Any change(s) reported to the Department during the TBA period which results in food stamp benefits greater than the TBA amount will be treated as a request to recertify.

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- (1) If the TBA AU reports a change during the TBA period, the Department will recalculate the food stamp benefits.
 - (a) If the change results in a food stamp benefit amount that is less than or equal to the TBA amount, the Department will continue to pay the current TBA amount for the remaining TBA period.
 - (b) If the change results in a food stamp benefit amount that is greater than the current TBA amount, the Department will:
 1. recertify the AU; and
 2. pay the increased food stamp benefit amount.
- (2) If the Department receives an income change from another program for the TBA AU during the TBA period, the Department will recalculate the food stamp benefits.
 - (a) If the change results in a food stamp benefit amount that is less than or equal to the current TBA amount, the Department will continue to pay the current TBA amount for the remaining TBA period.
 - (b) If the change results in a food stamp benefit amount that is greater than the current TBA amount, the Department will:
 1. recertify the AU; and
 2. pay the increased food stamp benefit amount.

(E) Recertification Requirements for TBA Assistance Units

The TBA AU must recertify at the end of the TBA period and will be notified in accordance with 106 CMR 366.310.

365.200: Assistance Units with Boarders Who Are Not Assistance Unit Members

The amount of payment an assistance unit receives from a boarder(s) who is not an assistance unit member shall be considered self-employment income to the assistance unit and handled in accordance with the instructions in this section. Instructions for handling those assistance units which own and operate a commercial boarding house are set forth in 106 CMR 365.900.

When determining an assistance unit's eligibility and benefit level, boarders who are not members of the assistance unit shall have none of their income and resources considered available to the assistance unit.

(A) Income from Boarders

All direct payments to the assistance unit for room and meals, including contributions to the assistance unit's shelter expenses, shall be considered earned income to the assistance unit. Shelter expenses paid directly to someone outside the assistance unit shall not be counted as income to the assistance unit.

(B) Cost of Doing Business

After determining the income the assistance unit receives from boarders, the worker shall exclude from the income that portion which is the cost of doing business. The cost of doing business shall be equal to either of the following. However, the amount allowed as a cost of doing business cannot exceed the amount of payment the assistance unit receives from the boarder.

- (1) The maximum allotment for an assistance unit size that is equal to the number of boarders;
or
- (2) The actual documented cost of providing lodging and meals if the actual cost exceeds the amount of (1), above. If actual costs are used, only separate and identifiable costs of providing lodging and meals to boarders can be excluded.

(C) Deductible Expenses

The assistance unit's countable self-employment income from boarders (after excluding the cost of doing business) is added to any other earned income prior to applying the earned income deduction.

Shelter costs for assistance units with boarders shall not include any shelter expenses paid by the boarder directly to a third party, such as the landlord or utility company.

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Because of the way these households receive income, special certification procedures are required.

365.410: Resident Farm Laborers

Resident farm laborers may work for one (1) employer or for a number of employers during the year. The certification procedures for these households differ depending on the household's receipt of income.

(A) Stable Income

Some farm laborers are normally employed for the entire year and receive a regular monthly salary. These households can be certified for up to one (1) year providing the receipt of regular income can be predicted and household circumstances are not likely to change.

(B) Irregular Income

(1) One (1) Employer

In some instances the farm laborer household resides year round on one farm, but is paid only during the work season. During the non-work season, the household may receive advance or deferred payments. The worker may have some difficulty in assigning an income figure to the farm worker whose income is high during the work season and correspondingly low during the non-work season when income is only from advance or deferred payments. Since the variation in income between the two (2) cycles may be quite substantial, averaging income over the

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certification period might tend to inhibit households from participating during the non-work period of low income. Even if income is prorated unevenly over the certification period to account for such variations, the income figure assigned during the low period might not be truly representative of the actual cash available to the household. For this reason, consideration should be given to certifying the household for lesser periods to take into account the income actually available to the household.

(2) More than one Employer.

Farm laborer households which reside on the farm year round, but do not receive advance or deferred payments will most likely have income from another source during the non-work season. These households should be assigned shorter certification periods in accordance with the predictability of the receipt and amount of income.

(C) Work Requirements

Resident farm laborers must comply with work requirements during the non-work season unless exempt in accordance with 106 CMR 362.310 or 106 CMR 362.320.

365.420: Migrant Farm Laborers(A) Definition

Seasonal migrant farm laborers are individuals who move from one region or locale to another to engage in or seek farm, land, or crop cultivation activities that are seasonal. Migrant farm laborers may travel completely within a state or may move across many states, traveling in a seasonal pattern.

(B) Assets

Special care should be taken in dealing with migrants to determine if there are out-of-state assets or income from real property in the home-base area. For example, a migrant, who claims Texas as a home-base area and who is applying for food stamps in Massachusetts should be questioned as to the availability of assets in Texas as well as Massachusetts. Particular attention should be paid to real property in the home-base area. Each applicant household is permitted one home and lot as an exemption from assets. If the applicant has a home and lot in Texas and does not own a residence in Massachusetts, the Texas home will be exempt as an asset. Shelter costs for the home when not occupied

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by the household because of employment may be allowed under certain circumstances. To be included in the household's shelter costs, the household must intend to return; the home must not be leased or rented; and the current occupants of the home, if any, must not be claiming the shelter costs. Verification requirements for these expenses are discussed in 106 CMR 364.450(B). Additionally, the worker should explore the possibility that out-of-state real property is being rented or is producing income in some way. If such property is producing income, such income must be added to all other household income in determining eligibility and basis of issuance.

(C) Income

Migrant households are subject to the normal income eligibility standards.

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(D) Expedited Service.

A migrant household newly arrived in an area usually has little or no income and may be eligible for expedited certification and issuance.

(E) Work Registration.

Employable members of migrant households who are not employed at least 30 hours a week or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours must register for and accept suitable employment in the same manner as other persons. Growers should be made aware of the fact that migrants are being registered with DES and that they can obtain workers there.

365.430: School Employees

Teachers and other school employees who work under a renewable annual contract will be considered to be receiving compensation for an entire year even though pre-determined non-work periods are involved and actual compensation is paid during the work periods only.

(A) Annual Contract

- (1) Contract Renewal. The renewal process may involve signing a new contract each year; automatic renewal; or, as in cases of school tenure, rehire rights may be implied and thus preclude the use of a written contract altogether.
- (2) Work - Non-Work Cycle. The fact that a contract is in effect for an entire year does not mean that the contract will stipulate work every month of the year. Rather, there may be certain predictable non-work periods or vacations, such as the summer break between school years.

(3) Income.

Income from an annual contract will be considered as compensation for a full year regardless of the frequency of compensation whether stipulated in the terms of the contract, or determined at the convenience of the employer, or determined at the wish of the employee.

(B) Determining Eligibility and Benefit Level.

School employees who derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income is not received on an hourly or piecework basis. To determine household eligibility, all other monthly income from other household members will be added to this average monthly income, and income exclusions and deductions applied in the normal manner. Once eligibility has been determined, the annualized income may either be averaged or prorated unevenly over the 12 months before adding it to other monthly income for determining the household's basis of issuance during the certification period.

(C) Certification Periods for School Employees

Certification periods shall be assigned in accordance with 106 CMR 364.700.

(D) Work Requirements

School employees must comply with work requirements during the non-work season unless exempt in accordance with 106 CMR 362.310 or 106 CMR 362.320.

365.500: Assistance Units Living with Nonhousehold Members

Nondisqualified nonhousehold members as defined in 106 CMR 361.230(A), (B), (C) and (E) shall be treated in accordance with 106 CMR 365.510.

Disqualified nonhousehold members as defined in 106 CMR 361.230(D) shall be considered in accordance with 106 CMR 365.520.

365.510: Nondisqualified Nonhousehold Members

Nondisqualified nonhousehold members shall be treated in accordance with the provisions of the following subsections. If otherwise eligible nondisqualified nonhousehold members may be eligible as separate assistance units.

(A) Applying Financial Eligibility Standards

The income and resources of the nondisqualified nonhousehold member shall not be considered available to the assistance unit.

- (1) Cash payments from the nonhousehold member to the assistance unit shall be considered countable income to the assistance unit.
- (2) Vendor payments made by the nonhousehold member on behalf of the assistance unit shall be excluded as income to the assistance unit.
- (3) If the food stamp assistance unit shares deductible expenses with a nonhousehold member(s), only the amount actually paid or contributed by the food stamp assistance unit shall be deducted as a assistance unit expense.
If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among all assistance unit members including the nonhousehold member(s) and only the food stamp assistance unit's prorated share deducted.

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- (4) For certain cases, the earned income of an assistance unit member and the earned income of a nonhousehold member are combined into one wage. If the assistance unit's share can be identified, that portion shall be included in the assistance unit's earned income. If the assistance unit's share cannot be identified, the earned income shall be prorated among all those whom it was intended to cover and the portion attributed to assistance unit members shall be included in the assistance unit's earned income.

(B) Determining Eligibility and Benefit Level

The nondisqualified nonhousehold member is excluded when determining the assistance unit's eligibility and benefit level.

(C) Actions Required for Certified Households with Nonhousehold Members

If a member of a certified assistance unit becomes a nonhousehold member, the worker shall review the assistance unit's eligibility and benefit level and issue a Notice of Adverse Action if the assistance unit's benefits are to be reduced or terminated.

365.520: Disqualified Nonhousehold Members

- (A) Nonhousehold Members Disqualified for Any Reason in 106 CMR 367.800; Failing to Comply with the Food Stamp Work Program; Failing to Comply with the Requirement to Provide and Verify a Social Security Number at 106 CMR 362.500; or Disqualified Due to an Undetermined Noncitizen Status, Nonimmigrant Noncitizen Status or Not Legally Residing Noncitizen Status Shall Be Treated as Follows:

(1) Assets

For noncategorical households, the countable assets of a disqualified nonhousehold member shall continue to count in their entirety for the remaining assistance unit members.

(2) Income

The countable income of a disqualified nonhousehold member shall continue to count in its entirety for the remaining assistance unit members.

(3) Deductible Expenses

A disqualified nonhousehold member's expenses, as listed in 106 CMR 364.400, shall continue to apply to the remaining assistance unit members.

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A disqualified nonhousehold member shall not be included in determining the assistance unit's size except when calculating the assistance unit's entitlement. In no instance shall this disqualification increase the benefit level for the remaining assistance unit members.

(5) Action Required

When an assistance unit's benefits are reduced or terminated because one of its members has been disqualified for any of the reasons described in 106 CMR 367.800; failing to comply with the Food Stamp Work Program; failing to comply with the requirement to provide and verify a social security number at 106 CMR 362.500; or due to an undetermined noncitizen status, nonimmigrant noncitizen status, or not legally residing noncitizen status, the Department shall notify the remaining members of their eligibility and benefit level at the same time the nonhousehold member being disqualified is notified of the disqualification. The assistance unit is not entitled to a Notice of Adverse Action, but may request a fair hearing to contest the reduction or the termination of benefits, unless the assistance unit has already had a fair hearing consolidated with an ADH regarding the amount of the claim, or the assistance unit has filed a signed waiver in accordance with 106 CMR 367.660.

(B) Nonhousehold Members Disqualified from Federal Food Stamp Benefits Due to Ineligible Legal Noncitizen Status Shall be Treated as Follows:(1) Assets

For noncategorical households, the countable assets of a nonhousehold member who is a legal noncitizen ineligible for food stamp benefits shall continue to count in their entirety for the household.

(2) Income

(a) For purposes of calculating the maximum food stamp benefit amount the household would be entitled to if all members were FS-eligible, the countable income, including a common assistance grant, of a nonhousehold member who is a legal noncitizen ineligible for food stamp benefits shall be counted for the remaining assistance unit members. See 106 CMR 364.600 (C)(1).

(b) For purposes of calculating the food stamp benefits of the FS-eligible members, the countable income, including a common assistance grant, of a nonhousehold member who is a legal noncitizen ineligible for federal food stamp benefits shall not be counted for the remaining assistance unit members. See 106 CMR 364.600 (C)(2).

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- (a) For purposes of calculating the maximum food stamp benefit the household would be entitled to if all members were FS-eligible, all deductions shall be applied to the household. See 106 CMR 364.600 (C)(1).
- (b) For purposes of calculating the food stamp benefits of the FS-eligible members:
 - (1) The standard deduction shall be applied to the FS-eligible household.
 - (2) The homeless deduction shall be applied to the FS-eligible household if the FS-eligible household meets the requirements at 106 CMR 364.400(F).
 - (3) The shelter expense deduction shall be applied to the FS-eligible household if the FS-eligible household has income.
 - (4) The earned income deduction shall be applied as follows:
 - (a) The earned income deduction of an FS-eligible member with earnings shall be applied to the FS-eligible household.
 - (b) The earned income deduction of a nonhousehold member with earnings who is a legal noncitizen ineligible for federal food stamp benefits shall not be applied to the FS-eligible household.
 - (5) A deduction for child support paid shall be applied as follows:
 - (a) A deduction for child support paid by an FS-eligible member shall be applied to the FS-eligible household.
 - (b) A deduction for child support paid by a nonhousehold member who is a legal noncitizen ineligible for federal food stamp benefits shall not be applied to the FS-eligible household.
 - (6) A deduction for dependent care costs paid shall be applied as follows:
 - (a) A deduction for dependent care costs paid by an FS-eligible member shall be applied to the FS-eligible household.
 - (b) A deduction for dependent care paid by a nonhousehold member who is a legal noncitizen ineligible for federal food stamp benefits shall not be applied to the FS-eligible household.
 - (7) A deduction for medical expenses :
 - (a) A deduction for medical expenses of an FS-eligible member shall be applied to the FS-eligible household.
 - (b) A deduction for medical expenses of a nonhousehold member who is a legal noncitizen ineligible for federal food stamp benefits shall not be applied to the FS-eligible household. See 106 CMR 364.600 (C)(2).

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- (a) For purposes of calculating the maximum food stamp benefit the household would be entitled to if all members were FS-eligible, a nonhousehold member who is a legal noncitizen ineligible for federal food stamp benefits shall be included in determining the assistance unit's size. See 106 CMR 364.600 (C)(2).
- (b) For purposes of calculating the food stamp benefits of the FS-eligible members, a nonhousehold member who is a legal noncitizen ineligible for federal food stamp benefits shall not be included in determining the assistance unit's size.

(5) Action Required

When an assistance unit's benefits are reduced or terminated due to the presence of a legal noncitizen ineligible for federal food stamps, the worker shall issue a Notice of Adverse Action informing the assistance unit that the individual is no longer eligible for food stamp benefits, the eligibility and benefit level of the remaining members, and the actions the assistance unit must take to end the disqualification, if applicable.

365.550: Residents of Shelters for Battered Women and Their Children

This section and the special provisions it contains, apply only to individuals residing in shelters for battered women and their children to whom the shelters provide meals.

(A) Definition

A shelter for battered women and children is defined as a public or private nonprofit facility that provides meals and lodging to battered women and their children. If a facility also serves other individuals, a portion of that facility must be set aside on a long-term basis to house only battered women and their children.

Shelters that are authorized by the Food and Nutrition Service (FNS) of USDA to redeem stamps at a wholesale food store meet this definition. No further assessment of the eligibility of these centers is necessary.

(B) Household Definition

Women or women with their children residing in a shelter shall be considered individual household units for the purpose of applying for and participating in the program.

(C) Residency and Participation

The restrictions in Section 362.100 which prohibit an individual from participating as a member of more than one household or in more than one state in any given month do not apply to certain shelter residents. A shelter resident certified as a member of a household that contains the person who subjected him or her to abuse may apply for and, if eligible, receive an additional food stamp allotment as a separate household. Residents may receive an additional allotment as a separate household only once a month.

The Department shall take action to adjust the benefits of the resident's former food stamp household either by shortening that household's certification period and issuing a Notice of Food Stamp Termination (Section 364.840) or by acting on the reported change and issuing a Notice of Adverse Action (Section 364.860).

Trans. by S.L. 751

**Food Stamp Program
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Page 365.550****Rev. 11/85****(2 of 2)****(D) Financial Eligibility and Deductible Expenses**

Shelter residents who apply as separate households shall be certified solely on the basis of their income, assets, and the shelter expenses for which they are liable. The income, assets, and shelter expenses of their former household shall be disregarded. Assets held jointly with members of the former household shall be handled in accordance with Section 363.120. Room payments to the shelter shall be considered shelter expenses.

(E) Expedited Processing

Residents who are otherwise entitled to expedited certification and issuance shall be issued benefits in accordance with expedited issuance standards set forth in Section 364.900(A).

Trans. by S.L. 1113

**Food Stamp Program
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Page 365.600****Rev. 4/97**365.600: Residents of Drug and Alcohol Treatment Centers

Individuals, with or without their children, living in drug or alcohol treatment centers who are considered residents of institutions (see 106 CMR 361.240) may be eligible to participate in the Food Stamp Program.

365.605: Residents of Group Living Arrangements

Residents of group living arrangements who are considered residents of institutions (see 106 CMR 361.240) may be eligible to participate in the Food Stamp Program.

365.610: Drug and Alcohol Treatment Centers

A drug or alcohol treatment and rehabilitation program is one that is conducted by a publicly operated community mental health facility under part B of Title XIX of the Public Health Service Act or by a private nonprofit organization or institution. The center shall receive and spend the food stamp benefit allotment for food prepared by and/or served to residents and their children.

Residents of drug or alcohol treatment centers in nonEBT areas must apply and be certified by an authorized representative who is an employee of and designated by the center that is administering the treatment and rehabilitation program. Residents and their children, if any, shall be certified as a household using the same procedures that apply to all other households except that certification is completed through the use of an authorized representative.

Residents of drug or alcohol treatment centers in EBT areas shall apply and be certified for food stamp benefits on their own behalf. The resident must authorize the transfer of their monthly food stamp benefit allotment to the center through the use of an on-site POS Terminal or EBT Manual Voucher System.

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A group living arrangement is defined as a community-based residential facility operated by a public or private nonprofit organization or institution authorized to serve no more than 16 residents. The facility shall be certified by an appropriate state agency under regulations issued pursuant to section 1616(e) of the Social Security Act, or under standards determined by the Secretary of Agriculture, to be comparable to standards implemented by appropriate state agencies under such section. To be eligible for food stamp benefits, residents of group living arrangements not including Teen Parent Structured Living Programs (TLPs) must be blind or disabled as defined in 106 CMR 361.240.

Before certifying a resident of a group living arrangement, the worker must verify that the facility is operated by a nonprofit organization or institution certified by the appropriate State agency and authorized to serve no more than 16 residents.

(A) Application Procedures for Group Living Arrangements Not Including Teen Parent Structured Living Programs (TLPs)

Residents of group living arrangements not including TLPs may apply and be certified through the use of an authorized representative who is an employee of and designated by the facility, or apply and be certified on their own behalf or through the use of an authorized representative of their own choice. The facility shall make the determination that a resident must apply through the facility's authorized representative, or may apply on his or her own behalf or through the use of an authorized representative of his or her own choice. The determination shall be based on the resident's physical and mental ability to handle his or her own affairs. All of the residents of the group living arrangement do not have to be certified through an authorized representative or individually in order for one or the other method to be used.

(1) Group Living Arrangement as Authorized Representative

Residents that apply through the use of the facility's authorized representative shall have their eligibility determined as one-person households. The facility shall receive and spend the residents' food stamp benefit allotment for food to be prepared and served to the eligible residents, or may allow the residents to use any portion of their allotments on their own behalf.

(2) Residents Acting on Their Own Behalf in NonEBT Areas

When a resident, or group of residents, applies and is certified on their own behalf or through the use of an authorized representative of their own choice, they may return the food stamp benefit allotment to the facility to be used to purchase food for meals served either communally or individually to eligible residents, use the food stamp benefits to purchase meals prepared and served by the facility, or use any portion of the food stamp benefits to purchase and prepare food for their own consumption.

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When a resident, or group of residents, applies and is certified on their own behalf or through the use of an authorized representative of their own choice, they must authorize the transfer of their monthly food stamp benefit to the facility through the use of an on-site POS Terminal or EBT Manual Voucher System. The facility shall receive and spend the residents' food stamp benefit allotment for food to be prepared and served to the eligible residents, or may allow the residents to use any portion of their allotments on their own behalf.

(B) Application Procedures for Teen Parent Structured Living Programs (TLPs) in EBT Areas

Residents shall either apply and be certified on their own or through the use of an authorized representative employed and designated by the TLP.

- (1) If the facility has an on-site POS Terminal or EBT Manual Voucher System the resident or the facility as authorized representative must authorize the transfer of the monthly food stamp benefit allotment to the TLP. The TLP may either receive and spend the food stamp benefit allotment for food prepared by and/or served to the resident, or allow the resident to use all or any portion of the food stamp benefit allotment on his/her own behalf.
- (2) If the facility does not have an on-site POS Terminal or EBT Manual Voucher System, the facility as authorized representative may either receive and spend the food stamp benefit allotment for food prepared by and/or served to the resident, or allow the resident to use all or any portion of the food stamp benefit allotment on his/her own behalf.

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365.630: Certification of Residents(A) Application Processing(1) Expedited Service

Residents of drug or alcohol treatment and rehabilitation centers and group living arrangements may be eligible for expedited service in accordance with 106 CMR 365.800 et seq. Eligibility of the facility, as defined in 106 CMR 365.610 and 365.620, shall be verified before providing expedited food stamp benefits.

(2) Normal Processing Standards

When normal processing standards apply, the worker must complete the verification and documentation requirements before making an eligibility determination for the initial application.

(B) Determining Shelter Costs for Residents

When residents make a combined payment for meals and lodging (shelter), the cost of shelter shall be equal to the difference between the amount of the room and board payment and the maximum food stamp benefit allotment for the appropriate food stamp household size.

(C) Recertification and Changes During the Certification Period

The worker shall recertify residents and process changes in household circumstances using the same standards that apply to all other food stamp households.

(D) Rights of Certified Residents

Resident households have the same rights to notices of adverse action, fair hearings and entitlement to lost benefits as do all other food stamp households.

(E) Work Requirements

Individuals who regularly participate in a drug or alcohol treatment and rehabilitation program are exempt from the work requirements in accordance with 106 CMR 362.310 or 106 362.320. Participation may be verified through the organization or institution operating the program before granting the exemption, if the information is questionable

**Food Stamp Program
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Each treatment center and group living arrangement shall give the local office a monthly list of currently participating residents. This list shall include a statement signed by a responsible facility official attesting to the validity of the list.

(B) Reporting Changes

Treatment centers and group living arrangements, when acting as an authorized representative, shall notify the local office of changes in the (resident) assistance unit's income or other circumstances. The facility shall also immediately notify the local office when a resident leaves the facility.

(C) Actions When a Resident Leaves the Facility

- (1) When a resident leaves a treatment center or a group living arrangement that is acting as the resident's authorized representative, the following rules apply:
 - a. If an assistance unit leaves the facility after the food stamp benefits are received and transacted, the facility shall provide the assistance unit with its full monthly allotment if no food stamp benefits have been used on behalf of that assistance unit. This applies at any time during the month.
 - b. If an assistance unit leaves the facility before the 16th day of the month and food stamp benefits have been spent on behalf of the assistance unit, the facility shall provide the assistance unit with one-half of its monthly allotment.
 - c. If an assistance unit leaves the facility on or after the 16th day of the month and any food stamp benefits have been spent on behalf of the assistance unit, the assistance unit does not receive any food stamp benefits.
 - d. Once an assistance unit leaves, the facility is no longer allowed to act as that assistance unit's authorized representative.

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- (2) When a resident or group of residents are certified on their own behalf, the following apply:
- a. If the residents retain use of their food stamp benefits, they are entitled to keep the food stamp benefits when they leave the facility. If a group of residents has applied as an assistance unit and retains use of their food stamp benefits, a pro rata share of the remaining food stamp benefits shall be provided to any departing member.
 - b. If a group of residents has been certified as an assistance unit and has returned their food stamp benefits to the facility to use, a departing member shall be given a pro rata share of one-half of the assistance unit's monthly allotment if leaving before the 16th of the month.
- (3) The facility shall at the end of each month return to the Department any food stamp benefits not provided to departing residents.
- (4) When a resident leaves a treatment center or a group living arrangement in an EBT area, the facility must credit the EBT/FS account of the departing resident through the POS Terminal or EBT Manual Voucher System. A departing resident shall be given a pro rata share of the assistance unit's monthly food stamp benefit allotment.

(D) Change Report Form

The treatment center or group living arrangement shall (if possible) provide the assistance unit with a Change Report Form. The assistance unit is to use the form to report its new address and other circumstances to the Department after leaving the facility. The facility must advise the assistance unit to return the form to the appropriate office of the Department within 10 days.

**Food Stamp Program
Special Situation Households****Chapter 365
Page 365.650****Rev. 5/98**365.650: Liability of Facility as Authorized Representative(A) Misrepresentation or Fraud

The organization or institution is responsible for any misrepresentation or fraud which it knowingly commits in the certification of residents. As an authorized representative, the organization or institution must be knowledgeable about the assistance unit's circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The organization or institution is strictly liable for all losses or misuse of food stamp benefits used on behalf of resident assistance units and for all overissuances which occur while the assistance units are residents of the facility.

(B) Claims for Overissuances

Whenever an overissuance is discovered, whether by the worker, the Department, or the United States Department of Agriculture, a claim determination shall be established against the organization or institution to recover the value of the overissuance.

365.660: Facility Penalties and Disqualifications

The United States Department of Agriculture may disqualify or penalize an organization or institution if it is determined administratively or judicially that food stamp benefits were misappropriated or used for purchases that did not contribute to a certified assistance unit's meals. The worker shall promptly notify Food Stamp Management, 600 Washington Street, Boston, MA 02111, when there is reason to believe that an organization or institution is misusing food stamp benefits in its possession. However, the Department shall not take any action against the organization or institution before USDA action.

**Food Stamp Program
Special Situation Households**365.670: Disqualified Treatment Centers and Group Living Arrangements

The Department shall suspend the authorized representative status of any treatment center or group living arrangement that is disqualified by the United States Department of Agriculture. The authorized representative status shall remain suspended for as long as the facility is disqualified.

365.680: Loss of State Agency Certification

A drug/alcoholic treatment center or a group living arrangement that loses its State agency certification may not participate in the Food Stamp Program.

365.690: Residents of Disqualified and Decertified Facilities(A) Drug/Alcoholic Treatment Centers

Residents of a drug/alcoholic treatment center that has its status as an authorized representative suspended or loses its State agency certification are ineligible to participate in the Food Stamp Program.

(B) Group Living Arrangements

Residents of a group living arrangement that has its status as an authorized representative suspended or loses its State agency certification shall be ineligible unless they apply and are certified on their own behalf. These residents may still participate if otherwise eligible. However, their food stamp benefit use shall be restricted in that food stamp benefits may not be turned over to said facility either to purchase food or for meals.

(C) Notice to Residents

Residents whose eligibility is terminated because the facility in which they live loses its State agency certification or has its status as an authorized representative suspended are not entitled to advance notice of adverse action. However, they shall receive a Notice of Ineligibility explaining the termination and when it will be effective.

365.700: Students

A student is an individual enrolled in any kindergarten, grade school, vocational school, technical school, training program, college or university at least half-time as defined by the institution. A student's status is not altered during temporary periods of time in

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which the school is not in session, such as summer vacations or semester breaks, provided he or she is enrolled for the next regular session.

Students require special procedures for the handling of income and the determination of eligibility. While such procedures are of primary importance in the certification of households consisting solely of students or where the student is the head of household, these special handling procedures are equally applicable to households where the student is a dependent member.

365.710: Students Enrolled in Institutions of Higher Education

To be eligible to participate in the Food Stamp Program, students aged 18 through 49 who are enrolled in an institution of post-secondary education, as defined in 106 CMR 362.400, a vocational or technical school at any level, a program that provides for completion of a secondary school diploma or the equivalent, or a school at any level for the physically or mentally handicapped must meet the conditions of 106 CMR 362.400 through 362.420.

365.730: Assets

Student households are subject to the asset eligibility standards set forth in 106 CMR 363.000 through 363.150. In determining the assets of students, deferred payment loans and other monies that have been averaged as income (106 CMR 365.740) shall not be counted as an asset.

365.740: Income

Students as a rule have extremely uneven cash flows and have sources of income not normally available to other households.

(A) Income for Educational Purposes

This includes scholarships, fellowships, educational grants, deferred payment loans for education, veterans' educational benefits and the like that are used for education.

(B) Excluded Educational Expenses

- (1) The income described in (A) above is excluded to the extent that it is made available for tuition, mandatory school fees, origination fees and insurance premiums on student loans, books, supplies, transportation, and any other expenses necessitated by school attendance, in accordance with 106 CMR 363.230(D), at an institution of post-secondary education, a vocational or technical school at any level, a program that provides for completion of a secondary school diploma or the equivalent, or a school at any level for the physically or mentally handicapped.

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An institution of post-secondary education is any public or private educational institution that admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located or normally requires a high school diploma or equivalency certificate for enrollment. The institution must be legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or to provide a training program that will prepare students for gainful employment. This includes but is not limited to colleges, universities, and correspondence schools.

- (2) Mandatory school fees include those fees that the institution providing the course of study charges to all students or to all students within a certain curriculum, as well as optional expenses such as the rental or purchase of equipment, materials and supplies related to the pursuit of the course of study.
- (3) Excluded Reimbursements are nonfederal reimbursements or allowances provided to the student for past or future expenses. These nonfederal reimbursements are excluded from income to the extent that they do not exceed the actual expense and do not represent a gain or benefit to the student (see 106 CMR 363.230(F)). For example, nonfederal reimbursements for specific educational expenses, such as travel or books, are excluded from income. However, allowances for room and board are a gain or benefit and must be counted as income.
 - (a) To be excluded, the grantor must provide and earmark these payments specifically for educational expenses rather than for normal living expenses.
 - (b) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses.
 - (c) Reimbursements shall not be considered to exceed actual expenses unless the provider or the household indicates the amount is excessive.

**Food Stamp Program
Special Situation Households**365.800: Expedited Service

Each local office shall designate personnel to screen each application on the day it is made so that a determination can be made on that day as to whether the household is entitled to expedited service. An application made at the Social Security Administration must be screened for entitlement to expedited service on the day it is received at the correct local office. Designated personnel may include a volunteer, a receptionist, or other employee.

The expedited service households described in 106 CMR 365.810 are the only households entitled to expedited service at initial certification. These households may be entitled to expedited service at recertification if, before provision of expedited service, they have either: 1) completed any verification requirements postponed at the last provision of expedited service; or 2) been certified on a non-expedited basis since the last provision of expedited service.

A household not entitled to expedited service shall have its application processed according to normal processing standards.

365.810: Expedited Service Households(A) One Hundred Fifty Dollar (\$150) Gross Income Household

A \$150 gross income household is a household whose gross income for the month of application does not exceed \$150 and whose liquid assets, as described in 106 CMR 363.100, do not exceed \$100.

(B) Destitute (Migrant) Household

A destitute household is a migrant or seasonal farmworker household whose liquid assets, as described in 106 CMR 363.100, do not exceed \$100 and who has little or no income in the month of application because an income source has been terminated, is new, or because one income source is terminated and one income source is new, as defined below.

(1) Terminated Source

If a household is to be eligible for expedited issuance on the basis of a terminated source of income, the household must reasonably expect to receive no income from that source during the balance of the month of application and the next month if the household had been receiving income from this source monthly or more frequently. A household having received income less frequently than monthly must reasonably expect to receive no income from this source when the next payment would normally have been received.

**Food Stamp Program
Special Situation Households**(2) New Source

If the household is to be eligible for expedited service on the basis of a new source of income, the income received or reasonably expected to be received during the periods of time described below must not exceed \$25:

- a. The 10 days following the date of application; and
- b. The 30 days before the date of application if income is normally received monthly or more frequently than monthly, or during the last normal interval between payments if income is normally received less frequently than monthly.

(3) Terminated Source and New Source

If the household is to be eligible for expedited service during a month in which it has received income from both a terminated source and a new source, no income from the terminated source must be reasonably expected to be received during the balance of the month of application and not more than \$25 must be reasonably expected to be received from the new source during the 10 days following the date of application.

A household member who has changed jobs and continues to work for the same employer shall be considered as still receiving income from the same source.

A household member's source of income shall be considered to be from the grower for whom the member is working and not from the crew chief. A member who travels with the same crew chief but moves from one grower to another shall be considered to have moved from a terminated income source to a new source.

Travel advances received from a new employer by a household to journey to the new employment shall be disregarded when determining whether a household is eligible for expedited service but may be considered when determining the household's eligibility and benefit level in accordance with 106 CMR 365.850.

(C) Special Expedited Service Households

A special expedited service household is a household whose combined monthly gross income and liquid assets are less than their combined monthly rent (or mortgage) and utilities. In determining the household's utility expense, the Standard Utility Allowance must be utilized in accordance with 106 CMR 364.400(F). The \$100 liquid asset limit does not apply to these households.

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Special Situation Households****Chapter 365
Page 365.820****Rev. 5/98**365.820: Expedited Service Processing Standards(A) Issuance of Expedited Benefits

For assistance units determined eligible, expedited food stamp benefits must be issued via the EBT System no later than the seventh calendar day after the application filing date.

(B) Office Interview Not Required or Waived

When an office interview is not required or is waived, the worker shall conduct a telephone interview by the first working day following the date the application was filed if the assistance unit can be reached by telephone. If the assistance unit cannot be reached by telephone, the worker shall notify the assistance unit by mail by the first working day following the date the application was filed that the assistance unit must contact the office to be interviewed by telephone.

(C) Unsigned or Incomplete Application

If an assistance unit submits an application that is either unsigned or incomplete and is subsequently interviewed by telephone, the worker shall complete the application during the interview. The completed application will be mailed to the assistance unit on the same day for signature. For these assistance units the expedited service processing standard begins on the date a completed and signed application is received rather than the date the application was filed. Assistance units unable to appoint an authorized representative and not required to come into the office as part of the certification process shall have their food stamp benefits issued no later than six days after the receipt of the returned signed application. In some cases the worker may discover an assistance unit is entitled to expedited service that the screening process failed to identify. For these assistance units the expedited service processing standard begins on the date the worker discovers the assistance unit is entitled to expedited service.

**Food Stamp Program
Special Situation Households****Chapter 365
Page 365.830****Rev. 5/98**365.830: Expedited Service Verification Requirements

The assistance unit's identity is the only eligibility factor that must be verified before expedited service is provided. Readily available documentary evidence or collateral contact, in accordance with 106 CMR 361.640(A) and (B), may be used. Examples of acceptable documentary evidence include, but are not limited to, a driver's license, a work or school I.D. card, a voter registration card, a birth certificate, wage stubs or an I.D. for health benefits or for another assistance or social services program. Any documents that reasonably establish the applicant's identity must be accepted and no requirement for a specific type of document, such as a birth certificate, may be imposed.

The Social Security requirements of 106 CMR 362.500 do not have to be met before expedited service is provided. These requirements must be met prior to the first full month of participation, unless good cause for not meeting these requirements is established in accordance with 106 CMR 362.500(D).

The applicant must register for work if subject to Food Stamp Work Requirements in accordance with 106 CMR 362.300 et seq. unless exempt or unless the assistance unit has designated an authorized representative to apply on its behalf in accordance with 106 CMR 361.300. Every assistance unit member required to meet Food Stamp Work Requirements must register for work before expedited service is provided (this requirement shall be waived for household disasters as defined in 106 CMR 366.600).

The worker should attempt to obtain as much required verification (106 CMR 361.610) as possible during the interview, but should not delay the certification for expedited service until the sixth day if the worker has determined it is unlikely that other verification can be obtained within the expedited service processing time frame. Identity must always be verified before expedited service is provided.

365.840: Determining Eligibility and Benefit Level for Expedited Service Assistance Units

All income received or reasonably expected to be received in the month of application must be considered when determining eligibility and benefit level.

For Destitute (Migrant) Households, income already received during the month of application must be considered when determining eligibility and benefit level. Income anticipated to be received after the application has been made shall be disregarded. If a travel advance has been received during the month of application, it shall be disregarded if it is considered a reimbursement. If it is considered by written contract as an advance on wages to be earned later, the travel advance shall be considered income.

The provisions of 106 CMR 364.650 concerning the proration of initial month's benefits shall apply to all expedited service assistance units.

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Special Situation Households****Chapter 365
Page 365.850****Rev. 1/97**365.850: Assigning Certification Periods to Expedited Service Households(A) Verification Provided Prior to Certification

Households certified on an expedited basis that have provided all necessary verification prior to certification shall be assigned a certification period in accordance with 106 CMR 364.700.

(B) Verification Postponed

Households that are certified on an expedited basis but have postponed providing verification shall be certified for the month of application only. They must be informed on the Notice of Eligibility that they will receive no further benefits until the postponed verification is provided. When these households provide the postponed verification, they shall be provided with their second month's benefits within seven working days from receipt of the verification or on the first day of the cyclical issuance period, whichever is later.

(C) Destitute (Migrant) Households

Destitute (migrant) households who have postponed verification from sources outside the state shall be issued a second month's benefits if verification from sources within the state has been received. The second month's benefits shall be provided within seven working days from receipt of the verification or on the first day of the cyclical issuance period, whichever is later.

Destitute (migrant) households must provide verification from sources outside the state before they are issued a third month's benefits. The third month's benefits shall be provided within seven working days from receipt of the verification or on the first day of the cyclical issuance period, whichever is later.

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**Food Stamp Program
Special Situation Households****Chapter 365
Page 365.900****Rev. 9/83**365.900: Households with Income from Self-Employment

The following sections describe the procedures for handling income from a self-employment enterprise and for determining the eligibility and benefit level of households when all or part of their income is from self-employment.

365.910: Roomer, Boarder, Rental Income

Income from roomers, rental property, and boarders of a commercial boarding house is considered self-employment income for Program purposes. A household's countable income from these self-employment enterprises should be determined in accordance with the instructions in this section. The income a household receives from a boarder, other than that received by a household who owns and operates a commercial boarding house, is also considered self-employment income but is in accordance with the procedures set forth in Section 365.200.

**Food Stamp Program
Special Situation Households****Chapter 365
Page 365.920****Rev. 8/97**365.920: Work Requirements

When all or part of a household's income is from self-employment, the household members must comply with Food Stamp Program Work Requirements in accordance with 106 CMR 362.300 et seq. unless exempt.

(A) Exemptions

- (1) The household member shall be exempt from the Food Stamp Program Work Requirements if actively engaged in the self-employment enterprise at least 30 hours per week, or if not working 30 hours per week, receiving weekly earnings equal to the hourly federal minimum wage multiplied by 30 hours.
- (2) If the household member does not meet the criteria in (1) above and is not otherwise exempt under the provisions of 106 CMR 362.310 or 106 CMR 362.320, the household member must comply with the work requirements.

(B) Seasonal Work

The circumstances of household members engaged in seasonal self-employment shall be carefully reviewed to determine if the minimum requirement is met in the off-season.

- (1) The seasonal employee shall be exempt from the Food Stamp Program Work Requirements if working an average of 30 hours per week, or if not working 30 hours per week, receiving weekly earnings equal to the hourly federal minimum wage multiplied by 30 hours.
- (2) If the seasonal employment does not meet the criteria in (1) above and the household member is not otherwise exempt under the provisions of 106 CMR 362.310 or 106 CMR 362.320, the seasonal worker must comply with the work requirements during non-work periods.

365.930: Special Income Considerations

(A) Income from Rental Property

- (1) The cost of doing business is always allowed, regardless of whether the income is classified as earned or unearned.
- (2) Income from rental property is considered earned income and entitles the household to the earned income deduction only if a member of the household is actively engaged in the management of the property at least an average of 20 hours per week.

**Food Stamp Program
Special Situation Households****Chapter 365
Page 365.940****Rev. 4/87****(B) Capital Gains as Income**

The proceeds from the sale of capital goods or equipment related to the business is included when determining self-employment income. Even if only 50% of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the full amount of the capital gain shall be counted as income for food stamp purposes.

365.940: Allowable Costs of Producing Self-Employment Income

Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of: labor (wages paid to an employee or work contracted out); stock (inventory); raw materials used to make a product; seed and fertilizer for farming; interest paid to purchase income producing property; insurance premiums; taxes, assessments, and utilities paid on income-producing property; advertisement; licenses and permits; service and repair of income-producing property; legal and professional fees; business supplies.

365.950: Expenses Not Allowed as a Cost of Producing Self-Employment Income

- (A) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods. Interest payments are deductible.
- (B) Net losses from previous periods of time.
- (C) Federal, state and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work). These expenses are accounted for by the earned income deduction.
- (D) Depreciation.

365.960: Averaging Self-Employment Income and Assigning Certification Periods

- (A) Self-employment income that represents a household's annual support shall be averaged over a 12-month period, even if the income is received in a shorter period of time during that 12 months. For example, self-employment income received by farmers shall be averaged over a 12-month period if the income is intended to support the farmer on an annual basis. This self-employment income shall be annualized even if the household receives income from other sources in addition to self-employment. However, if the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the self-employment income shall be calculated on anticipated earnings. The worker shall not calculate self-employment income on the basis of prior income (such as income tax returns) when the household has experienced a substantial increase or decrease in business.

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- (B) Self-employment income that is received on a monthly basis but that represents a household's annual support shall normally be averaged over a 12-month period. If, however, the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the worker shall calculate the self-employment income based on anticipated earnings.
- (C) Self-employment income that is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than a 12-month period.
- (D) If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise shall be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year. However, if the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

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365.970: Determining Eligibility and Benefit Level(A) Averaged Income

For the period of time over which self-employment is determined, add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.

(B) Anticipated Income

For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, add any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months except that a new average monthly amount shall be calculated for this 12 month period if the anticipated amount of capital gains changes. Then add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtract the cost of producing self-employment income. Except for depreciation, the cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income. Capital gains is the gain the household makes from the sale of a capital asset, such as real property used to carry out the household's business enterprise, in excess of the value of the property or cost of the property.

(C) Determining Monthly Food Stamp Income

To determine the monthly food stamp income for households with income from self-employment enterprises, the monthly net self-employment income is added to any other earned income, or in the case of unearned rental income to other unearned income, received by the household.

If the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses shall be offset against any other countable income in the household, provided that the farmer has received or is anticipating receiving annual gross proceeds of one thousand dollars (\$1000) or more from the farming enterprise; and provided that whatever base is used to determine any net income from self-employment farm operations, such as the previous year's tax return or current income, the same base is used in determining any net loss. Losses shall be prorated over the year in a manner comparable to that used to prorate farm self-employment income.